

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**JOHN PHIL FITZGERALD**

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§  
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§

**CASE NO. 1:11-CR-5(2)**

**MEMORANDUM ORDER  
ADOPTING FINDINGS OF FACT AND RECOMMENDATION  
ON DEFENDANT’S GUILTY PLEA**

The Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, for administration of a guilty plea under Rules 11 and 32 of the Federal Rules of Criminal Procedure. Judge Giblin conducted a hearing in the form and manner prescribed by Federal Rule of Criminal Procedure 11 and issued his Findings of Fact and Recommendation on Guilty Plea Before the United States Magistrate Judge [Doc. #125].

The magistrate judge recommended that the Court accept the defendant’s guilty plea and conditionally accept the plea agreement. He further recommended that the Court finally adjudge the defendant as guilty on Count Twenty-Four of the charging Second Superseding Indictment filed against the defendant in this cause.

The parties have not objected to the magistrate judge’s findings. The Court **ORDERS** that the Findings of Fact and Recommendation on Guilty Plea [Doc. #125] of the United States Magistrate Judge are **ADOPTED**, in part. The Court adopts the magistrate judge’s findings that the defendant’s plea is voluntary and that his plea is supported by an independent factual basis

establishing each of the essential elements of the charged offense. However, the Court defers acceptance of the plea agreement until after review of the presentence report.

So **ORDERED** and **SIGNED** this **21** day of **December, 2011**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

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Ron Clark, United States District Judge